Remarks

Claims 4, 10-11, 14-16, 35-40, 42-43, and 45-50 remain in the application with only Claim 35 being in independent form. Claims 1-3, 5-9, 12-13, and 17-34 were previously cancelled and claims 41 and 44 are currently being cancelled. Claims 4, 10-11, 14, 35-40, 42-43, and 45-48 are being amended and claims 49-50 have been added. No new matter is being introduced through these amendments and additions.

On April 22, 2004, the Examiner contacted the Applicant to discuss the §101 rejections and suggest language to overcome these rejections. The Examiner and Applicant subsequently agreed on language that incorporated the analysis module into a core step. The Examiner indicated that an Examiner's Amendment would be prepared. Due to the subsequent withdrawal of the allowable subject matter, the Examiner's Amendment was also withdrawn.

The Examiner then issued a second Non-Final Office Action and rejected Claims 4, 10, 11, 14-16, and 35-48 under 35 U.S.C. § 101 as being directed to non-statutory subject matter. In this second Non-Final Office Action, the Examiner suggests that the claims be amended to explicitly recite that at least one of the core steps of the invention (e.g. an analysis step) is performed by a computer processor, such as the analysis module. On November 3, 2004, Applicant contacted the Examiner to again discuss the §101 rejections. The Examiner indicated that the same previously agreed upon language will overcome these rejections. Claim 35 is therefore amended as suggested by the Examiner and the §101 rejections are believed overcome.

Claims 4, 10, 11, 14-16, and 35-48 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Stellix (both version 1.4 and version 2.1), as disclosed in two ADP Collision Repair Services articles, in view of Marinucci ("Monitoring Flag Time Can Boost Profits"). The Examiner, in essence, focuses on paragraph 8 of the Stellix 2.1 article to provide a teaching for much of the invention as set forth in claim 35. Paragraph 8 states the following:

> [t]he system's ShopView(TM) feature also provides instant at-a-glance, views of all repair orders, including the status and alerts in parts, labor, production and sublet work.

The Examiner uses the Marinucci article to provide a teaching for allocating a target time period, defining a preselected daily time target, and identifying a delay if the time allocated to the vehicle is less than the preselected daily time target.

Applicant has amended independent Claim 35, as well as a number of the dependent claims, to set forth a plurality of vehicles, a plurality of repair processes, and a number of delays. The multiplicity of the delays and reasons for the delays was set forth in previous dependent claim 44.

Claim 35 has also been amended to set forth the additional steps of associating a code with each of the reasons for the delays, storing the codes in the analysis module, and reporting a proficiency of the repair processes using the analysis module by categorizing each of the codes to identify chronic problems. The utilization of a code associated with a reason for the delays was set forth in previous dependent claim 41 and dependent claim 42.

Claim 41 is not specifically addressed in the latest Official Action and Official Notice was taken by the Examiner for dependent claim 42. In particular, the Examiner contends that it would have been obvious to one of ordinary skill in the art to implement with the Stellix system the use of codes to identify and store a delay reason.

Applicant respectfully submits that the Examiner has misinterpreted the Stellix system and/or is expanding the Stellix system beyond its actual disclosure and teaching. To assist the Examiner and to clearly set forth the metes and bounds of the Stellix system, Applicant encloses a Declaration by co-inventor Charles Kelly. As stated in paragraphs 3-8, Mr. Kelly is fully aware of the Stellix system, including the ShopView feature.

The Stellix system, in essence, computerized many operations of a repair shop that were previously done manually (see paragraph 10 of the Declaration). As stated in paragraph 9 of the Declaration, repair shops would manually monitor the overall status of each vehicle in an attempt to determine a repair shop's productivity, profitability, etc. The overall statuses of the vehicles would be monitored on a paper grid sheet or a large magnetic board. In particular, a vehicle Repair Order Number would be written on the board for each vehicle and then a magnetic label, which was often in the shape of a vehicle silhouette, would be moved across the board as each vehicle moved through a repair process. If a delay occurred to a vehicle, the shop owner would circle the label or some

other portion of the board to identify that the vehicle was delayed. The shop owner might also write a comment on the side indicating a reason for the delay, for the purpose of providing information to help get the delayed vehicle moving again. Once the repair on the vehicle was completed, the vehicle identifier and any comments would be erased such that a new vehicle could be monitored.

The ShopView feature tracks the status or location of the vehicle. In other words, the ShopView feature monitors the location of the vehicle as the vehicle moves through the repair process. This understanding of the ShopView feature is confirmed by Mr. Kelly at paragraph 11 of the Declaration. The ShopView feature can also produce an 'alert' when a vehicle is delayed. The 'alert', however, simply indicates to the shop owner that a delay has occurred in one of the vehicles. This 'alert' is similar to the prior manual operation of simply circling the vehicle that was delayed. Again, this understanding of the ShopView feature is confirmed by Mr. Kelly at paragraph 12 of the Declaration.

As discussed in paragraph 13 of the Declaration, the ShopView feature allows the shop owner to insert comments relative to the 'alert' or delay. Again, the comments feature of ShopView is similar to the prior manual operation of writing a comment on the magnetic board for the purpose of providing information to help get the delayed vehicle moving through the repair process. The comments feature of ShopView therefore addresses each delay individually.

The Stellix system, ShopView feature, and 'alert' signal in no way assigns a code for a reason of the delay as required by independent Claim 35. The 'alert' signal also does not categorize and accumulate these codes and does not store these codes in a module for later analytical use for the purpose of making improvements in the production process as also required by independent Claim 35. This understanding of the Stellix system, ShopView feature, and 'alert' signal is confirmed by Mr. Kelly at paragraph 14 of the Declaration.

As stated in paragraph 15 of the Declaration, the Stellix system, ShopView feature, and 'alert' signal also do not report a proficiency of the repair process or processes by categorizing each of the codes such that chronic problems that occurred during the repair processes can be identified. Certainly, the Stellix system, ShopView feature, and 'alert'

signal cannot produce a report based on cause and sub-causes for delays because their data is not collected in the first place.

In summary, the Stellix system, ShopView feature, and 'alert' signal do not disclose, teach, or suggest a number of the claimed features in independent Claim 35. Also, the Marinucci article does not provide any disclosure, teaching, or suggestion for utilizing the codes, storing the codes, and reporting by categorizing the codes. As such, Claim 35 is believed allowable. The remaining claims are also believed allowable as these claims depend from the novel features of Claim 35.

Accordingly, it is respectfully submitted that the Application, as amended, is now presented in condition for allowance, which allowance is respectfully solicited. The Commissioner is authorized to charge our Deposit Account No. 08-2789 for any fees or credit the account for any overpayment.

Respectfully submitted,

HOWARD & HOWARD ATTORNEYS, P.C.

Date: December 14, 2004

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CERTIFICATE OF MAILING

I hereby certify that the attached **Amendment, Supplemental Information Disclosure Statement, PTO 1449 with copies of patents, Declaration Under 37 C.F.R. § 1.132 for Charles A. Kelly,** and **return post card** are being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to the **Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450,** on **December 14, 2004**.

Brenda J. Hughes

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